IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.4512 of 2006

Mr.Rakesh Kumar s/o. Surendra
Bahadur Singh Applicant

Vs.

The State of Maharashtra Respondent

Mr.Subhash Jha, Mr.A.M.Saraogi and Mr.V.B. Jaiswal
for applicant.
Mr.Y.S.Shinde, APP for State.

CORAM: B.H.MARLAPALLE,J.

January 15, 2007.

P.C.

. Heard Mr.Jha with Mr.Saraogi, the learned counsel for the applicant who has been arrested by the police on 30/11/2006 in connection with C.R. No.396/2006 registered with Wagle Estate Police Station at Thane for offences punishable under Sections 498-A, 406, 306 read with Section 34 of IPC and he has been refused to be released on bail by the learned In-charge 2nd Addl. Sessions Judge at Thane vide his order dated 12/12/2006.

. The applicant's elder brother Rajesh Singh was married to Kavita, the daughter of the complainant on 25th February 2001 and from the said wedlock she

begot a daughter by name Shloka. It is alleged that on account of the harassment and the dowry demands made by the in-laws as well as the husband of Kavita, she left her matrimonial home sometimes in June 2006 and started residing with her parents. On 25th November 2006 Kavita along with her parents and other relations celebrated the birthday of her daughter - Shloka and before the midnight she had taken Shloka on the terrace for bursting firecrackers. Shloka died instantaneously as she fell down from the 13th floor terrace. No complaint was filed with the police station. On 26th November 2006 after the midnight Kavita allegedly committed suicide by throwing herself from the terrace of the flat she was staying and she died. On 30/11/2006 an FIR came to be lodged stating that Kavita committed suicide and before doing so she also killed her daughter by throwing her from the terrace, on account of her frustrations arising from the harassment and ill-treatment meted to her by her in-laws.

. Rajesh, the husband of Kavita was absconding but the applicant was taken in custody on 30/11/2006 and he still remains to be in the custody of the police. The learned Addl. Sessions Judge noted that

the statements recorded of Kavita's friends revealed that she had told them about the harassment and also about the reasons as to why she pushed her own daughter - Shloka from the terrace of the building in which she was staying with her parents. As noted earlier, Kavita had left the matrimonial home sometimes in June 2006 and when Shloka died on 25/11/2006 and in the midnight of 26th November, 2006 when Kavita died, the applicant was nowhere around. The applicant being the younger brother of Rajesh, the husband of Kavita, deserves to be released on bail in the facts and circumstances of this case. The reasoning given by the learned Sessions Judge in refusing the prayer for bail cannot be accepted in the circumstances of this case.

. The application is, therefore, allowed and it is directed that the applicant be released on bail forthwith on furnishing PR bond in the sum of Rs.25,000/- and two solvent sureties for the like amount and on the further condition that he shall be available for interrogation by visiting the concerned police station between 3 p.m. to 5 p.m. on three days in a week for a period of four weeks from today or till the investigation is completed whichever is

earlier. Mr.Saraogi, the learned counsel for the applicant states that by way of interim measures the applicant be allowed to furnish a cash guarantee in the sum of Rs.50,000/- for a period of two weeks.

Prayer granted.

(B.H